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09/589,551	06/07/2000	Thomas L. DiStefano III	6676-11	8542

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EXAMINER
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LAstra, DANIEL

ART UNIT	PAPER NUMBER
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3622

MAIL DATE	DELIVERY MODE
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06/18/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Office Action Summary**

Application No.

09/589,551

Applicant(s)

DISTEFANO, THOMAS L.

Examiner

DANIEL LASTRA

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 16 January 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_.

### **DETAILED ACTION**

1. Claims 1-21 have been examined. Application 09/589,551 has a filing date 06/07/2000.

### **Response to Amendment**

2. In response to Appeal Brief filed 01/16/2007, PROSECUTION IS HEREBY REOPENED.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) request reinstatement of the appeal.

If reinstatement of the appeal is requested, such request must be accompanied by a supplemental appeal brief, but no new amendments, affidavits (37 CFR 1.130, 1.131 or 1.132) or other evidence are permitted. See 37 CFR 1.193(b)(2).

### **Claim Rejections - 35 USC § 103**

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 4-12 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mason (US 6,401,075) in view of Moore et al (U.S. 6,330,575).

As per claims 1 and 19, Mason teaches:

A method of assisting a website designer in establishing an arrangement between a first website being designed by the website designer and a second website in order to market the first website at the second website upon the activation of the first website on the Internet, the method comprising:

receiving information at a user interface indicating a type of an element for marketing that is to be displayed at the second website, and information specifying the second website at which the element is to be displayed (see column 5, lines 45-60);

saving the information at a first database that is coupled to the user interface (see col 5, lines 30-65);

obtaining the element for marketing of the type indicated (see col 5, lines 45-65);  
and

wherein the element of marketing includes at least one of a banner ad concerning the first website and a link to the first website (see col 4, lines 20-40). Mason does not expressly teach during the design of the first website causing the display of the element for marketing at the second website when the first website is activated with respect to the Internet. However, Moore teaches a system for designing websites, where a first website is activated with respect to the Internet when said first website is posted to a hosting server (see Moore col 3, lines 20-45), as Applicant's specification page 33, lines 10-13 discloses that "posting" a website" and "activating a website" are

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equivalent terms. Therefore, it would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that Mason's advertiser's website would caused the display of a banner ad in a second website when said advertiser's website is activated with respect to the Internet, as taught by Moore in order to avoid posting banner ads in websites which would not provide any click-throughs revenues.

As per claim 4, Mason teaches:

The method of claim 1, further comprising:

determining whether a reciprocal site for the display of at least one marketing element of a third party website exists in the first website being designed (see col 5, lines 15-25) but does not expressly teach creating the reciprocal site for the display of the at least one marketing element of the third party website when the reciprocal site does not yet exist in the first website being designed. However, Moore teaches a system for designing websites (see col 3, lines 20-30). Therefore, the same argument made in claim 1 with respect to this missing limitation is also made in claim 4.

As per claim 5, Mason teaches:

The method of claim 4, further comprising:

when the element for marketing the first website is a banner ad concerning the first website (see col 4, lines 30-37, causing the sequential display at the reciprocal site of the first website of a plurality banner ads respectively concerning a plurality of third party websites (see col 5, lines 15-25) but does not expressly teach when the first website is activated with respect to the internet. However, the same argument made in claim 1 regarding this missing limitation is also made in claim 5.

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As per claim 6, Mason teaches:

The method of claim 4, further comprising:

when the element for marketing the first website is a link to the first website, causing the display at the reciprocal site of the first website of a plurality of links to the plurality of third party websites (see col 6, lines 30-45) but does not expressly teach when the first website is activated with respect to the Internet. However, the same rejection applied to claim 1 regarding this missing limitation is also made in claim 6.

As per claim 7, Mason teaches:

The method of claim 1, wherein the element for marketing is the banner ad concerning the first website, further comprising:

determining whether the banner ad for the first website has already been designed (see col 3, lines 25-55) but does not expressly teach and when it is determined that the banner ad for the first website has not yet been designed, displaying a message at the user interface indicating the necessity of designing the banner ad. However, it would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that Mason would create and edit banner advertisements (see Mason col 5, lines 30-45), and when it is determined that the banner ad for the first website has not yet been designed, displaying a message at the user interface indicating the necessity of designing the banner ad as an advertisement campaign remainder.

As per claim 8, Mason fails to teach:

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The method of claim 7, further comprising, when it is determined that the banner ad for the first website has not yet been designed:

providing a first display region on the user interface, the first display region being capable of displaying a plurality of elements;

receiving a search request for available banner ad designs at the user interface;

performing a search of information concerning a plurality of available elements stored on a second database in response to the search request, wherein a search engine program performs the search;

displaying results of the search on the user interface; and

receiving a selection command at the user interface to select a first banner ad design from the results. However, Moore teaches a system for designing websites, which includes display regions (see figure 9), performing search of available elements for making said web-pages (see col 10, line 44 – col 11, line 15) and selecting different layouts and images for the design of said webpage (see figures 9-11). Therefore, the same rejection made in claim 1 regarding this missing limitation is also made in claim 8.

As per claim 9, Mason fails to teach:

The method of claim 8, further comprising:

providing a second display region on the user interface, the second display region being capable of displaying the plurality of elements;

displaying the first banner ad design in the second display region;

receiving a first command to modify the first banner ad design in the second display region;

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modifying the first banner ad design in response to the first command;

terminating the display of the second display region;

displaying the modified first banner ad design in the first display region, wherein the first display region is capable of displaying the first banner ad design in an interactive manner; and saving the modified first banner ad design. However, the same rejection applied to claim 8 is also applied to claim 9.

As per claim 10, Mason fails to teach:

The method of claim 9, further comprising:

receiving at the user interface a command to preview the modified first banner ad design; and

providing a preview of the modified first banner ad design, wherein the preview allows for the display of all visual effects of the modified first banner ad design, and allows for the sounding of all sonic effects of the modified first banner ad design. However, Moore teaches a system for designing websites which allows a webpage designer to add audio and multimedia files to said websites (see figure 13) and to preview created web-pages (see col 11, lines 55-60). Therefore, the same argument made in claim 8 regarding this missing limitation is also made in claim 10.

As per claim 11, Mason fails to teach:

The method of claim 9, further comprising, prior to the saving of information concerning the modified first banner ad design:

displaying a prompt concerning payment;



receiving credit card processing information at the user interface and determining the adequacy of the credit card processing information (see column 6, lines 63-67). However, Moore teaches a system for designing websites, which receives credit card processing information. Therefore, it would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that Mason system would billed the advertisers for designing advertisements, as taught by Mason in order that Mason system generate revenue for providing to advertisers a advertisement campaign system.

As per claim 12, Mason teaches:

The method of claim 1, further comprising, prior to receiving the information indicating the type of the element and the information specifying the second website:

providing a first display region on the user interface, the first display region being capable of displaying a plurality of elements (see col 5, lines 45-60);

receiving a selection of a smart agent option at the user interface, the selection of which is indicative of a desire to establish the arrangement between the first website being designed by the website designer and the second website in order to market the first website at the second website (see col 5, line 45 – col 6, line 5); displaying a smart agent menu having a suggested marketing locations option, a create links option and a banner ad rotations option, wherein the create links option and the banner ad rotations option can be selected to indicate the type of the element for marketing (see column 2, lines 50-65). Mason does not expressly teach that said marketing occurs upon the

activation of the first website on the Internet. However, the same argument made in claim 1 regarding this missing limitation is also made in claim 12.

As per claim 21, Mason teaches:

An internet-based system for assisting a website designer in establishing an arrangement between a first website being designed by the website designer and a second website in order to market the first website at the second website upon the activation of the first website on the Internet, the system including:

a server computer accessible by a plurality of registered user computers and a plurality of unregistered computers using the Internet (see col 3, lines 25-65).

receives at a user interface displayed at one of the registered user computers information indicating a type of an element for marketing that is to be displayed at the second website, and information specifying the second website at which the element is to be displayed (see column 5, lines 45-67);

saves the information at a first database that is coupled to the server computer (see column 5, lines 1-7);

obtains an element for marketing (see column 5, lines 45-60);

provides a web page of the second website to one of the unregistered computers (see column 4, lines 20-40); displays the element for marketing on the web page (see column 3, lines 40-55). Mason fails to teach hosts the second website and activates the first website on the Internet by hosting the first website on the Internet. However, the same rejection made in claim 1 regarding this missing limitation is also made in claim 21.

4. Claims 13, 16-18 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moore et al (U.S. 6,330,575).

As per claims 13 and 20, Moore teaches:

A method of assisting a website designer in establishing an e-commerce feature on a first website being designed by the website designer for access by third parties upon the activation of the first website on the Internet, the method comprising:

receiving at a user interface a selection of the e-commerce feature that is desired to be implemented on the first website, wherein the e-commerce feature is at least one of a shopping cart and an auction (see column 7, lines 60-67; column 8, lines 40-55);

receiving at the user interface information concerning a picture of a product desired to be sold using the e-commerce feature (see figure 7);

receiving at the user interface information concerning a written description of the product (see figures 7-10);

receiving at the user interface information concerning a price of the product (see figures 15 and 16);

receiving at the user interface information concerning an identification number of the product (see figures 15 and 16); and

displaying the e-commerce feature on the first website, wherein display of the e-commerce feature includes the display of at least some of the picture, written description, price and identification information of the product (see figure 16). Moore does not expressly teach the displaying of said e-commerce feature on the first website when the first website is activated on the Internet. However, Applicant's specification

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page 33, lines 10-13 discloses that "posting" a website" and "activating a website" are equivalent terms. Therefore, it would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that Moore's merchant website would displayed the commerce feature when said website is posted to a host server as posting and activating are equivalent terms as taught by Applicant's specification.

As per claim 16, Moore teaches:

The method of claim 13, wherein the information concerning the picture of the product is uploaded from a memory device at a website designer computer, and wherein the information concerning the written description, price and identification number of the product is received at the user interface into a form field (see figure 15).

As per claim 17, Moore teaches:

The method of claim 13, further comprising, after the receiving of the information concerning the identification number of the product:

prompting for an input of a merchant account identifier (see column 11, lines 62-67);

when the merchant account identifier is received, saving the information concerning the selected e-commerce feature, the received information concerning the picture, written description, price and identification number of the product, and the merchant account identifier (see column 12, lines 1-46); .

when an indication that no merchant account identifier exists is received, providing a merchant account information form, receiving merchant account information at the user interface, and sending the merchant account information to a merchant

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account vendor, wherein, the e-commerce feature is only displayed on the internet when both the first website is activated on the internet and the merchant account identifier has been received (see column 11, line 60 – column 12, line 45).

As per claim 18, Moore teaches:

The method of claim 13, further comprising:

providing a first display region on the user interface, the first display region being capable of displaying a plurality of elements (see figure 9);

displaying the selected e-commerce feature including at least some of the information concerning the picture, written description, price and identification number of the product on the first display region, wherein the first display region is capable of displaying the e-commerce feature in an interactive manner (see figures 10-13).

5. Claims 2 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mason (US 6,401,075) in view of Moore (US 6,330,5750 and Wexler (U.S. 5,960,409).

As per claim 2, Mason fails to teach:

The method of claim 1, further comprising, prior to receiving the information indicating the type of the element and the information specifying the second website:

receiving at the user interface information concerning at least one of the website designer, a business of the website designer, and the first website;

performing a search of information on a second database having information concerning at least one of a plurality of third party website designers, a plurality of third party businesses and a plurality of third party websites;

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identifying from the search at least one third party website to which the first website should be coupled for marketing purposes; and

providing information concerning the at least one third party website at the user interface.

However, Wexler teaches that “advertisers may wish to advertise at more than one location, *i.e.*, more than one banner-publishing site. If so, the advertiser will presumably want to know, among other statistics, the effectiveness of each of the publishing sites, *i.e.*, which site generates the most visits to the advertiser’s Web site. Likewise, a banner-publishing site may wish to display the advertising, (*i.e.*, banner), of more than one advertiser” (see column 5, lines 24-45). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that Mason would use the Wexler system to search for third party websites, which would be desirable to have the banners ads displayed. This feature would increase the probability that the advertisements would be viewed by the intended target.

As per claim 3, Mason teaches:

The method of claim 1, further comprising  
during design of the first website, receiving information specifying a plurality of additional third party websites at which it is desirable to have the element displayed;

saving the information at the first database and causing the display of the element for marketing at each of the plurality of additional third party websites (see column 6, lines 1-6) but does not expressly teach when the first website is activated

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with respect to the Internet. However, the same argument made in claim 1 regarding this missing limitation is also made in claim 3.

6. Claims 14 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mason (US 6,401,075) in view of Moore (US 6,330,575) and Hess et al (U.S. 6,058,417).

As per claim 14, Mason fails to teach:

The method of claim 13, further comprising, prior to receiving at the user interface the selection of the e-commerce feature that is desired to be implemented:

displaying a list of at least one of a plurality of shopping carts and a plurality of auctions. However, Hess teaches the creation of an auction site (see figure 6B). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that Mason would use his Website creation tool to design an electronic commerce auction site, as taught Hess. The auction site would be another method use by the Mason system to sell and advertise products.

As per claim 15, Mason fails to teach:

The method of claim 13, wherein the e-commerce feature that is selected is an auction, and the information concerning the price of the product concerns a reserve price. However, Hess teaches the creation of an auction site (see figure 6B). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that Mason would use his Website creation tool to design an electronic commerce auction site, as taught Hess. The auction site would be another method use by the Mason system to sell and advertise products.

### **Response to Arguments**

7. Applicant's arguments with respect to claims 1-21 have been considered but are moot in view of the new ground(s) of rejection.

### **Conclusion**

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANIEL LASTRA whose telephone number is 571-272-6720 and fax 571-273-6720. The examiner can normally be reached on 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, ERIC W. STAMBER can be reached on 571-272-6724. The official Fax number is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

<sup>DL</sup>  
Daniel Lastra

June 2, 2007

  
RETTA YEHDEGA  
PRIMARY EXAMINER